



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/41392/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 30 April 2015**

**Decision &
Promulgated
On 6 May 2015**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE APPLEYARD

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MS AMIKA KIMONIA FARQUHARSON
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr. D. Clarke, Home Office Presenting Officer.

For the Respondent: Mr. C. Talacchi, Counsel.

DECISION AND REASONS

1. This is a respondent appeal but I shall henceforth refer to the parties in the original terms detailed in the decision of Judge of the First-tier Tribunal Cohen following a hearing at Taylor House on 30 June 2014.
2. No application for anonymity has been made in these proceedings and there is no reason why such an order should be made.
3. The appellant is a citizen of Jamaica. She appealed against a decision of the respondent dated 3 September 2013 to refuse her application for

leave to remain on the grounds that removal would not place the United Kingdom in breach of its obligations under the Human Rights Act 1998 and to give directions under Section 10 of the Immigration and Asylum Act 1999 for her removal from the United Kingdom.

4. The appellant's appeal was allowed by Judge Cohen. He did so under the Immigration Rules, the EEA Regulations and on human rights grounds. He found that the appellant had four children in the United Kingdom. Two of those children are British citizens and that the appellant is a single mother with sole responsibility for her children. They have a genuine and subsisting relationship, but it would appear from the decision that no other person has any responsibility for these children.
5. The respondent sought permission to appeal. This was initially refused by the First-tier Tribunal, but on 2 February 2015 permission was granted by Upper Tribunal Judge Kebede who found at paragraph 3 of her reasons that:-
 - “3. It is arguable that the judge erred in his consideration of the requirements of the Immigration Rules, both with respect to Appendix FM and paragraph 276ADE, and that his consideration of Article 8 outside the Rules was affected by that arguable error.”

Thus the appeal came before me today.

6. Mr. Clarke, whilst relying on his grounds of appeal and without conceding anything acknowledged that albeit there may be technical errors within the judge's decision, given the factual matrix found, they would not be material.
7. Mr. Talacchi did not resist that submission and urged me to allow the judge's decision to stand.
8. I find that although there are technical errors within this decision (for example by making reference to the Immigration (European Economic Area) Regulations 2006) they are not material.
9. On the factual matrix found it was inevitable this appeal would succeed and the conclusions of the judge were therefore open to be made in all the circumstances.

Notice of Decision

10. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
11. I do not set aside the decision.

Signed

Date 5 May 2015

Deputy Upper Tribunal Judge Appleyard